IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

MFA.No. 198 of 2000()

OPMV.1808/1994 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM
.....

APPELLANT/3RD RESPONDENT:

THE ORIENTAL INSURANCE CO. LTD., NOW REP. BY ITS ASSITANT MANAGER, MOTOR THIRD PARTY CLAIMS CELL, M.G.ROAD, KOCHI-35.

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS/PETITIONER AND RESPONDENTS 1 AND 2:

1.P.Y.KURIACHAN,S/O.YOHANNAN,PARAVEETIL HOUSE, AKAPARAMBU, MEKKAD P.O., ANGAMALY.

2.P.R.DAVIS,S/O.RAPPAI, PALLASSERY HOUSE, BEHIND OF CHURCH, KUTTICHIRA, THRISSUR DIST.

3.T.V.VARGHESE, S/O.THRESIAMMA, THEKKAN HOUSE, KUTTICHIRA P.O., THRISSUR DISTRICT.

BY ADV. SRI.R.SUDHISH FOR R1
SMT.MANJU SUDHISH FOR R1
SRI.GEO PAUL

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.F.A.198/2000

ORDER ON C.M.P.NO.5138/2000 IN M.F.A.NO.198/2000.

DISMISSED.

SD/- J.B.KOSHY,JUDGE

SD/- K.P.BALACHANDRAN,JUDGE

1.6.2007

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.198 OF 2000 ()

Dated this the 1st day of June, 2007

J U D G M E N T

KOSHY,J.

This appeal is filed by the Insurance company contending that as driver of the offending vehicle had no licence, it is not liable to deposit the amount. It is also contended that amount awarded was very high. The total amount awarded was Rs.1,01,800/-. 10% disability was certified for the serious injuries including fracture of 7, 8, 9 and 10th ribs as well as fracture of spleenic legament. He was under treatment for six months by various specialists. Even though medical certificate assessing 20% disability tribunal reduced loss of earning capacity only at 10% without any valid reasons and for disability, loss of earning power, loss of amenities etc. taking 15 as the multiplier only Rs.10,000/- was awarded. It is also stated that 1150 ml of blood was drained and very expensive treatment was given. Towards the medical expenses amount

awarded is very high. He produced actual bills for purchasing medicines alone amounting to Rs.17,163.50 (Ag). Considering the treatment, quantum and nature of injuries etc. compensation awarded is on the low side and in any event it is not high as contended by the appellant Insurance company in an appeal proceedings.

2. With regard to the second contention tribunal has already held that since the driver of the offending vehicle insured by the appellant Insurance company had no driving licence Insurance company is entitled to recover the amount from insured. The statutory liability of the third party has to be deposited by the appellant Insurance company. Since Insurance company was already allowed to get the amount reimbursed from the insured, we see no ground in the appeal and hence appeal is dismissed.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.198 OF 2000 ()

J U D G M E N T

1st June, 2007